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the performance of the work which is described in paragraphs (a), (b), and (c) of § 541.2; and (3) routine work which is not related or is only remotely related to the administrative duties. (As used in this subpart the phrase "routine work" means work which does not require the exercise of discretion and independent judgment. It is not necessarily restricted to work which is repetitive in nature.)

(b) The work in category 1, that which is specifically described in § 541.2 as requiring the exercise of discretion and independent judgment, is clearly exempt in nature.

(c) Category 2 consists of work which if separated from the work in category 1 would appear to be routine, or on a fairly low level, and which does not itself require the exercise of discretion and independent judgment, but which has a direct and close relationship to the performance of the more important duties. The directness and closeness of the relationship may vary depending upon the nature of the job and the size and organization of the establishment in which the work is performed. This "directly and closely related" work includes routine work which necessarily arises out of the administrative duties, and the routine work without which the employee's more important work cannot be performed properly. It also includes a variety of routine tasks which may not be essential to the proper performance of the more important duties but which are functionally related to them directly and closely. In this latter category are activities which an administrative employee may reasonably be expected to perform in connection with carrying out his administrative functions including duties which either facilitate or arise incidentally from the performance of such functions and are commonly performed in connection with them.

(d) These "directly and closely related" duties are distinguishable from the last group, category 3, those which are remotely related or completely unrelated to the more important tasks. The work in this last category is non-exempt and must not exceed the 20-percent limitation for nonexempt work (up to 40 percent for service establishment) if the exemption is to apply.

(e) Work performed by employees in the capacity of "academic administrative" personnel is a category of administrative work limited to a class of employees engaged in academic administration as contrasted with the general usable of "administrative" in the act. The term "academic administrative" denotes administration relating to the academic operations and functions in a school rather than to administration along the lines of general business operations. Academic administrative personnel are performing operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration. Examples of jobs in school systems, and educational establishments and institutions, which are outside the term academic administration are jobs relating to building management and maintenance, jobs relating to the health of the students and academic staff such as social workers, psychologist, lunch room manager, or dietitian. Employees in such work which is not considered academic administration may qualify for exemption under other provisions of § 541.2 or under other sections of the regulations in subpart A of this part provided the requirements for such exemptions are met.

§ 541.203 Nonmanual work.

(a) The requirement that the work performed by an exempt administrative employee must be office work or nonmanual work restricts the exemption to "white-collar" employees who meet the tests. If the work performed is "office" work it is immaterial whether it is manual or nonmanual in nature. This is consistent with the intent to include within the term "administrative" only employees who are basically white-collar employees since the accepted usage of the term "white-collar" includes all office workers. Persons employed in the routine operation of office machines are engaged in office work within the meaning of § 541.2 (although they would not qualify as administrative employees since they do not meet the other requirements of § 541.2).

(b) Section 541.2 does not completely prohibit the performance of manual

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work by an "administrative" employee. The performance by an otherwise exempt administrative employee of some manual work which is directly and closely related to the work requiring the exercise of discretion and independent judgment is not inconsistent with the principle that the exemption is limited to "white-collar" employees. However, if the employee performs so much manual work (other than office work) that he cannot be said to be basically a "white-collar" employee he does not qualify for exemption as a bona fide administrative employee, even if the manual work he performs is directly and closely related to the work requiring the exercise of discretion and independent judgment. Thus, it is obvious that employees who spend most of their time in using tools, instruments, machinery, or other equipment, or in performing repetitive operations with their hands, no matter how much skill is required, would not be bona fide administrative employees within the meaning of § 541.2. An office employee, on the other hand, is a "white-collar" worker, and would not lose the exemption on the grounds that he is not primarily engaged in "non-manual" work, although he would lose the exemption if he failed to meet any of the other requirements.

§ 541.205 Directly related to management policies or general business operations.

(a) The phrase "directly related to management policies or general business operations of his employer or his employer's customers" describes those types of activities relating to the administrative operations of a business as distinguished from "production" or, in a retail or service establishment, "sales" work. In addition to describing the types of activities, the phrase limits the exemption to persons who perform work of substantial importance to the management or operation of the business of his employer or his employer's customers.

(b) The administrative operations of the business include the work performed by so-called white-collar employees engaged in "servicing" a business as, for example, advising the management, planning, negotiating,

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representing the company, purchasing, promoting sales, and business research and control. An employee performing such work is engaged in activities relating to the administrative operations of the business notwithstanding that he is employed as an administrative assistant to an executive in the production department of the business.

(c) As used to describe work of substantial importance to the management or operation of the business, the phrase "directly related to management policies or general business operations" is not limited to persons who participate in the formulation of management policies or in the operation of the business as a whole. Employees whose work is "directly related" to management policies or to general business operations include those whose work affects policy or whose responsibility it is to execute or carry it out. The phrase also includes a wide variety of persons who either carry out major assignments in conducting the operations of the business, or whose work affects business operations to a substantial degree, even though their assignments are tasks related to the operation of a particular segment of the business.

(d) It is not possible to lay down specific rules that will indicate the precise point at which work becomes of substantial importance to the management or operation of a business. It should be clear that the cashier of a bank performs work at a responsible level and may therefore be said to be performing work directly related to management policies or general business operations. On the other hand, the bank teller does not. Likewise it is clear that bookkeepers, secretaries, and clerks of various kinds hold the run-of-the-mine positions in any ordinary business and are not performing work directly related to management policies or general business operations. On the other hand, a tax consultant employed either by an individual company or by a firm of consultants is ordinarily doing work of substantial importance to the management or operation of a business.

(e) An employee performing routine clerical duties obviously is not performing work of substantial importance to the management or operation

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of the business even though he exercise some measure of judgment as to the manner in which he performs his clerical duties. A messenger boy who is carrying large sums of money cannot be said to be doing work of substantial importance to the business. Neglect of his duties could have serious consequences. An employee who is entrusted with very expensive equipment, the loss of which would be a serious loss to his employer, must perform his duties with proper care. An inspector, such as, for example, a fire inspector, whose neglect could cause loss of life or property to persons or to the business, must perform his duties with care. Such employees, obviously, are performing work of substantial importance to the management or operation of the business that is "directly related to management policies or general business operations" as that phrase is used.

(3) Some firms employ persons they describe as "statisticians" who, such as a person does, in the case of a statistician, he is clear. However, if such an employee analyzes data and draws conclusions which are important to the operation of, or which, in fact, affect the financial, merchandising, or other policy, clearly he is doing work directly related to management policies or general business operations. Personnel employee may, for example, be hiring window of a plant, a man who determines personnel policies affecting the establishment case, he is clearly doing work directly related to management policies or general business operations. The following examples illustrate the two cases, between them, there are many employees who may be of substantial importance to the management or operation of the business, depending on the particular facts.

(4) Another example is a person whose work may be in the welfare of the business, such as a person who is in charge of a particular article or in an industrial plant or in a company commonly called assistant or service establishment. Work is of substantial

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portance to the business even though
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his neglect. An employee operating
very expensive equipment may cause
serious loss to his employer by the im-
proper performance of his duties. An
inspector, such as, for example, an in-
spector for an insurance company, may
cause loss to his employer by the fail-
ure to perform his job properly. But
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tion of the business that it can be said
to be "directly related to management
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tions" as that phrase is used in § 541.2.

(3) Some firms employ persons whom
they describe as "statisticians." If all
such a person does, in effect, is to tab-
ulate data, he is clearly not exempt.
However, if such an employee makes
analyses of data and draws conclusions
which are important to the determina-
tion of, or which, in fact, determine fi-
nancial, merchandising, or other pol-
icy, clearly he is doing work directly
related to management policies or gen-
eral business operations. Similarly, a
personnel employee may be a clerk at a
hiring window of a plant, or he may be
a man who determines or effects per-
sonnel policies affecting all the work-
ers in the establishment. In the latter
case, he is clearly doing work directly
related to management policies or gen-
eral business operations. These exam-
ples illustrate the two extremes. In
each case, between these extreme types
there are many employees whose work
may be of substantial importance to
the management or operation of the
business, depending upon the par-
ticular facts.

(4) Another example of an employee
whose work may be important to the
welfare of the business is a buyer of a
particular article or equipment in an
industrial plant or personnel com-
monly called assistant buyers in retail
or service establishments. Where such
work is of substantial importance to

the management or operation of the
business, even though it may be lim-
ited to purchasing for a particular de-
partment of the business, it is directly
related to management policies or gen-
eral business operations.

(5) The test of "directly related to
management policies or general busi-
ness operations" is also met by many
persons employed as advisory special-
ists and consultants of various kinds,
credit managers, sales directors,
claim agents and adjusters, wage-rate
analysts, tax experts, account execu-
tives of advertising agencies, cus-
tomers' brokers in stock exchange
firms, promotion men, and many oth-
ers.

(6) It should be noted in this connec-
tion that an employer's volume of ac-
tivities may make it necessary to em-
ploy a number of employees in some of
these categories. The fact that there
are a number of other employees of the
same employer carrying out assign-
ments of the same relative importance
or performing identical work does not
affect the determination of whether
they meet this test so long as the work
of each such employee is of substantial
importance to the management or op-
eration of the business.

(7) In the data processing field some
firms employ persons described as sys-
tems analysts and computer
programmers. If such employees are con-
cerned with the planning, scheduling,
and coordination of activities which
are required to develop systems for
processing data to obtain solutions to
complex business, scientific, or engi-
neering problems of his employer or his
employer's customers, he is clearly
doing work directly related to manage-
ment policies or general business op-
erations.

(8) Under § 541.2 the "management
policies or general business opera-
tions" may be those of the employer
or the employer's customers. For ex-
ample, many bona fide administrative
employees perform important func-
tions as advisers and consultants but
are employed by a concern engaged in
furnishing such services for a fee. Typ-
ical instances are tax experts, labor re-
lations consultants, financial consult-
ants, systems analysts, or resident
buyers. Such employees, if they meet

the other requirements of §541.2, qualify for exemption regardless of whether the management policies or general business operations to which their work is directly related are those of their employer's clients or customers or those of their employer.

§541.206 Primary duty.

(a) The definition of "administrative" exempts only employees who are primarily engaged in the responsible work which is characteristic of employment in a bona fide administrative capacity. Thus, the employee must have as his primary duty office or non-manual work directly related to management policies or general business operations of his employer or his employer's customers, or, in the case of "academic administrative personnel," the employee must have as his primary duty work that is directly related to academic administration or general academic operations of the school in whose operations he is employed.

(b) In determining whether an employee's exempt work meets the "primary duty" requirement, the principles explained in §541.103 in the discussion of "primary duty" under the definition of "executive" are applicable.

§541.207 Discretion and independent judgment.

(a) In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered. The term as used in the regulations in subpart A of this part, more over, implies that the person has the authority or power to make an independent choice, free from immediate direction or supervision and with respect to matters of significance. (Without actually attempting to define the term, the courts have given it this meaning in applying it in particular cases. See, for example, *Walting v. Sterling Ice Co.*, 89 F. Supp. 655, reversed on other grounds, 165 F. (2d) 265 (CCA 10). See also *Connell v. Delaware Aircraft Industries*, 55 Atl. (2d) 637.)

(b) The term must be applied in the light of all the facts involved in the

particular employment situation in which the question arises. It has been most frequently misunderstood and misapplied by employers and employees in cases involving the following: (1) Confusion between the exercise of discretion and independent judgment, and the use of skill in applying techniques, procedures, or specific standards; and (2) misapplication of the term to employees making decisions relating to matters of little consequence.

(c) Distinguished from skills and procedures:

(1) Perhaps the most frequent cause of misapplication of the term "discretion and independent judgment" is the failure to distinguish it from the use of skill in various respects. An employee who merely applies his knowledge in following prescribed procedures or determining which procedure to follow, or who determines whether specified standards are met or whether an object falls into one or another of a number of definite grades, classes, or other categories, with or without the use of testing or measuring devices, is not exercising discretion and independent judgment within the meaning of §541.2. This is true even if there is some leeway in reaching a conclusion, as when an acceptable standard includes a range or a tolerance above or below a specific standard.

(2) A typical example of the application of skills and procedures is ordinary inspection work of various kinds. Inspectors normally perform specialized work along standardized lines involving well-established techniques and procedures which may have been cataloged and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They may have some leeway in the performance of their work but only within closely prescribed limits. Employees of this type may make recommendations on the basis of the information they develop in the course of their inspections (as for example, to accept or reject an insurance risk or a product manufactured to specifications), but these recommendations are based on the development of the facts as to whether there is conformity with the prescribed standards. In such cases a decision to

depart from the prescribed standard, the permitted tolerance is made by the inspector's sup. inspector is engaged in exercise rather than discretion and independent judgment within the meaning of regulations in Subpart A of this part.

(3) A related group of employees called examiners or graders perform similar work involving comparison of products with standards which are frequently written. Often, after continued to the written standards, or experience, the employee acquires sufficient knowledge so that re-written standards is unnecessary substitution of the employee for the manual of standards convert the character of the work formed to work requiring the exercise of discretion and independent judgment as required by the regulations in subpart A of this part. That the employee uses his skill and experience does not change the character of the work, i.e., that the product does not conform with the standard, into a real decision of significant matter.

(4) For example, certain "graders" turn over each "stick" of lumber both sides, after which a crayon is made to indicate the grade. The employee's familiarity with the lumber grades are well established. The employee's familiarity with the lumber grades is not exercised. Skill rather than discretion and independent judgment is exercised in grading the lumber. This does not necessarily mean, however, that employees who grade lumber commodities are not exercising discretion and independent judgment in grading commodities for which no recognized or established standard may require the exercise of discretion and independent judgment. Employees of this type are contemplated by the regulations in subpart A of this part. In addition, those situations in which an exempt buyer does grading, though even though routine work, may be considered exempt if it is directly related to the exempt work.

(5) Another type of situation in which skill in the application of techniques and procedures is sometimes required with discretion and independent

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depart from the prescribed standards or the permitted tolerance is typically made by the inspector's superior. The inspector is engaged in exercising skill rather than discretion and independent judgment within the meaning of the regulations in Subpart A of this part.

(3) A related group of employees usually called examiners or graders perform similar work involving the comparison of products with established standards which are frequently cataloged. Often after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for the manual of standards does not convert the character of the work performed to work requiring the exercise of discretion and independent judgment as required by the regulations in subpart A of this part. The mere fact that the employee uses his knowledge and experience does not change his decision, i.e., that the product does or does not conform with the established standard, into a real decision in a significant matter.

(4) For example, certain "graders" of lumber turn over each "stick" to see both sides, after which a crayon mark is made to indicate the grade. These lumber grades are well established and the employee's familiarity with them stems from his experience and training. Skill rather than discretion and independent judgment is exercised in grading the lumber. This does not necessarily mean, however, that all employees who grade lumber or other commodities are not exercising discretion and independent judgment. Grading of commodities for which there are no recognized or established standards may require the exercise of discretion and independent judgment as contemplated by the regulations in subpart A of this part. In addition, in those situations in which an otherwise exempt buyer does grading, the grading even though routine work, may be considered exempt if it is directly and closely related to the exempt buying.

(5) Another type of situation where skill in the application of techniques and procedures is sometimes confused with discretion and independent judg-

ment is the "screening" of applicants by a personnel clerk. Typically such an employee will interview applicants and obtain from them data regarding their qualifications and fitness for employment. These data may be entered on a form specially prepared for the purpose. The "screening" operation consists of rejecting all applicants who do not meet standards for the particular job or for employment by the company. The standards are usually set by the employee's superior or other company officials, and the decision to hire from the group of applicants who do meet the standards is similarly made by other company officials. It seems clear that such a personnel clerk does not exercise discretion and independent judgment as required by the regulations in subpart A of this part. On the other hand an exempt personnel manager will often perform similar functions: that is, he will interview applicants to obtain the necessary data and eliminate applicants who are not qualified. The personnel manager will then hire one of the qualified applicants. Thus, when the interviewing and screening are performed by the personnel manager who does the hiring they constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(6) Similarly, comparison shopping performed by an employee of a retail store who merely reports to the buyer his findings as to the prices at which a competitor's store is offering merchandise of the same or comparable quality does not involve the exercise of discretion and judgment as required in the regulations. Discretion and judgment are exercised, however, by the buyer who evaluates the assistants' reports and on the basis of their findings directs that certain items be re-priced. When performed by the buyer who actually makes the decisions which affect the buying or pricing policies of the department he manages, the comparison shopping, although in itself a comparatively routine operation, is directly and closely related to his managerial responsibility.

(7) In the data processing field a systems analyst is exercising discretion

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and independent judgment when he develops methods to process, for example, accounting, inventory, sales, and other business information by using electronic computers. He also exercises discretion and independent judgment when he determines the exact nature of the data processing problem, and structures the problem in a logical manner so that a system to solve the problem and obtain the desired results can be developed. Whether a computer programmer is exercising discretion and independent judgment depends on the facts in each particular case. Every problem processed in a computer first must be carefully analyzed so that exact and logical steps for its solution can be worked out. When this preliminary work is done by a computer programmer he is exercising discretion and independent judgment. A computer programmer would also be using discretion and independent judgment when he determines exactly what information must be used to prepare the necessary documents and by ascertaining the exact form in which the information is to be presented. Examples of work not requiring the level of discretion and judgment contemplated by the regulations are highly technical and mechanical operations such as the preparation of a flow chart or diagram showing the order in which the computer must perform each operation, the preparation of instructions to the console operator who runs the computer or the actual running of the computer by the programmer, and the debugging of a program. It is clear that the duties of data processing employees such as tape librarians, keypunch operators, computer operators, junior programmers and programmer trainees are so closely supervised as to preclude the use of the required discretion and independent judgment.

(d) *Decisions in significant matters.* (1) The second type of situation in which some difficulty with this phrase has been experienced relates to the level or importance of the matters with respect to which the employee may make decisions. In one sense almost every employee is required to use some discretion and independent judgment. Thus, it is frequently left to a truckdriver to decide which route to follow in going

from one place to another; the shipping clerk is normally permitted to decide the method of packing and the mode of shipment of small orders; and the bookkeeper may usually decide whether he will post first to one ledger rather than another. Yet it is obvious that these decisions do not constitute the exercise of discretion and independent judgment of the level contemplated by the regulations in subpart A of this part. The divisions have consistently taken the position that decisions of this nature concerning relatively unimportant matters are not those intended by the regulations in subpart A of this part, but that the discretion and independent judgment exercised must be real and substantial, that is, they must be exercised with respect to matters of consequence. This interpretation has also been followed by courts in decisions involving the application of the regulations in this part, to particular cases.

(2) It is not possible to state a general rule which will distinguish in each of the many thousands of possible factual situations between the making of real decisions in significant matters and the making of choices involving matters of little or no consequence. It should be clear, however, that the term "discretion and independent judgment," within the meaning of the regulations in subpart A of this part, does not apply to the kinds of decisions normally made by clerical and similar types of employees. The term does apply to the kinds of decisions normally made by persons who formulate or participate in the formulation of policy within their spheres of responsibility or who exercise authority within a wide range to commit their employer in substantial respects financially or otherwise. The regulations in subpart A of this part, however, do not require the exercise of discretion and independent judgment at so high a level. The regulations in subpart A of this part also contemplate the kind of discretion and independent judgment exercised by an administrative assistant to an executive, who without specific instructions or prescribed procedures, arranges interviews and meetings, and handles callers and meetings himself

where the executive's action is not required. I kind of discretion and judgment exercised by man in a brokerage house, what recommendations, customer for the purchase. It may include the kind and judgment exercised in obtaining wholesale salesmen, and other contacts are given reasonable liberty on negotiation on employers.

(e) *Final decisions not required.* The term "discretion and judgment" as used in the regulations in subpart A of this part necessarily imply that the decision by the employee must be final, that goes with unlimited authority, a complete absence of review or revision made as a result of discretion and independent judgment may consist of recommending action rather than the actual action. The fact that an action may be subject to review or reversal after it is taken does not mean that the employee exercising discretion and judgment within the meaning of the regulations in subpart A of this part. For example, the assistant to a large corporation may reply to correspondence to the president. Typical assistant will submit the replies to the president before they are sent out. After review, the president may discard the prepared reply, or that another be sent instead. The president may, however, destroy the exemption of the assistant's function. This does not mean that he does not exercise discretion and independent judgment in answering correspondence, which replies may be sent for review by the president.

(2) The policies formulated by a credit manager of a large company may be subject to review by company officials who may disapprove these policies. A management consultant who has knowledge of the operations of a business

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other: the shipping permitted to decide and the mode of orders; and the finally decide whether to one ledger rather it is obvious that not constitute the on and independent el contemplated by subpart A of this have consistently that decisions of ing relatively un- are not those in- ations in subpart A at the discretion and ent exercised must rial, that is, they with respect to mat- ce. This interpreta- followed by courts in the application of this part, to par-

able to state a gen- i distinguish in each and "possible fac- we making of sh. ant matters of choices involving c no consequence. It wever, that the term independent judg- meaning of the regu- A of this part, does inds of decisions nor- clerical and similar es. The term does ds of decisions nor- rsons who formulate the formulation of r appheres of responsi- cise authority within munit their employer spects financially or gulations in subpart wever, do not require discretion and inde- t at so high a level. In subpart A of this plate the kind of dis- dependent judgment ex- nistrative assistant who without specific rescribed procedures, ws and meetings, and and meetings himself

where the executive's personal atten- tion is not required. It includes the kind of discretion and independent judgment exercised by a customer's man in a brokerage house in deciding what recommendations to make to a customer for the purchase of securities. It may include the kind of discretion and judgment exercised by buyers, cer- tain wholesale salesmen, representa- tives, and other contact persons who are given reasonable latitude in car- rying on negotiation on behalf of their employers.

(e) *Final decisions not necessary.* (1) The term "discretion and independent judgment" as used in the regulations in subpart A of this part does not nec- essarily imply that the decisions made by the employee must have a finality that goes with unlimited authority and a complete absence of review. The deci- sions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's deci- sion may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not ex- ercising discretion and independent judgment within the meaning of the regulations in subpart A of this part. For example, the assistant to the presi- dent of a large corporation may regu- larly reply to correspondence addressed to the president. Typically, such an as- sistant will submit the more important replies to the president for review be- fore they are sent out. Upon occasion, after review, the president may alter or discard the prepared reply and direct that another be sent instead. This sec- tion by the president would not, how- ever, destroy the exempt character of the assistant's function, and does not mean that he does not exercise discre- tion and independent judgment in an- swering correspondence and in deciding which replies may be sent out without review by the president.

(2) The policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The manage- ment consultant who has made a study of the operations of a business and who

has drawn a proposed change in organi- zation, may have the plan reviewed or revised by his superiors before it is sub- mitted to the client. The purchasing agent may be required to consult with top management officials before mak- ing a purchase commitment for raw materials in excess of the con- templated plant needs for a stated pe- riod, say 6 months. These employees exercise discretion and independent judgment within the meaning of the regulations despite the fact that their decisions or recommendations are re- viewed at a higher level.

(f) *Distinguished from loss through ne- glect.* A distinction must also be made between the exercise of discretion and independent judgment with respect to matters of consequence and the cases where serious consequences may result from the negligence of an employee. The failure to follow instruction or pro- cedures, the improper application of skills, or the choice of the wrong tech- niques. The operator of a very intricate piece of machinery, for example, may cause a complete stoppage of produc- tion or a breakdown of his very expen- sive machine merely by pressing the wrong button. A bank teller who is en- gaged in receipt and disbursement of money at a teller's window and in re- lated routine bookkeeping duties may, by crediting the wrong account with a deposit, cause his employer to suffer a large financial loss. An inspector charged with responsibility for loading oil onto a ship may, by not applying correct techniques fail to notice the presence of foreign ingredients in the tank with resulting contamination of the cargo and serious loss to his em- ployer. In these cases, the work of the employee does not require the exercise of discretion and independent judg- ment within the meaning of the regula- tions in subpart A of this part.

(g) *Customarily and regularly.* The work of an exempt administrative em- ployee must require the exercise of dis- cretion and independent judgment cus- tomarily and regularly. The phrase "customarily and regularly" signifies a frequency which must be greater than occasional but which, of course, may be less than constant. The requirements will be met by the employee who nor- mally and recurrently is called upon to